

Seeger Weiss LLP
Christopher A. Seeger
(*Pro hac vice*)
77 Water Street
New York, NY 10005
(T) 212-584-0700
(F) 212-584-0799
cseeger@seegerweiss.com

**Carella, Byrne, Cecchi, Ostein, Brody &
Agnello, P.C.**
James E. Cecchi
(*Pro hac vice to be filed*)
5 Becker Farm Road
Roseland, NJ 07068
(T) 973 994-1700
(F) 973 994-1744
jcecchi@carellabyrne.com

Attorneys for Plaintiff, Carrie Laspina

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

MDL No. 2672 CRB (JSC)

IN RE: VOLKSWAGEN “CLEAN DIESEL”
MARKETING, SALES PRACTICES, AND
PRODUCTS LIABILITY LITIGATION

**RECOMMENDATION FOR
APPOINTMENT OF
RETIRED U.S. DISTRICT COURT JUDGE
LAYN R. PHILLIPS AS SPECIAL
SETTLEMENT MASTER, SUBMITTED
PURSUANT TO PRETRIAL ORDER NO. 1**

This Document Relates to:
ALL ACTIONS

Plaintiff, Carrie Laspina, through her undersigned counsel, in response to this Court’s Pretrial Order No. 1 [D.E. 2], at paragraph 11, hereby respectfully recommends that this Honorable Court appoint Layn R. Phillips, former United States District Court Judge for the Western District of Oklahoma, as Special Settlement Master. Although the undersigned recognize that Judge Phillips already was recommended earlier today, *see* D.E. 52, a supplement to the record, including the information set forth below and in the attached Exhibit A, may assist this Court by providing a more complete description of Judge Phillips’ unique qualifications.

Prior to the issuance of the Transfer Order by the Judicial Panel on Multidistrict Litigation, two of the transferor courts already had appointed Judge Phillips, with the consent of the defendants,

1 to serve as Master for the purpose of facilitating settlement negotiations. *See In re Volkswagen*
2 *“Clean Diesel” Cases*, No. 15-cv-13360-GER-APP (E.D. Mi.) Order of the Honorable Gerald E.
3 Rosen, dated October 22, 2015 (D.E. 14), and *In re Volkswagen “Clean Diesel” Cases*, No. 15-cv-
4 07012-JLL-JAD (D.N.J.) Order of the Honorable Jose L. Linares, dated October 23, 2015 (D.E. 31).

5 Judge Phillips is a former United States Attorney for the Northern District of Oklahoma, and
6 prior to that nomination, he served as an Assistant United States Attorney in the Central District of
7 California. As a federal judge, he presided over hundreds of settlement conferences in complex
8 business disputes and class actions. He also sat by designation on the United States Court of Appeals
9 for the Tenth Circuit. Following his resignation from the federal bench in 1991, he joined Irell &
10 Manella, LLP and founded and oversaw the firm’s Alternative Dispute Resolution Center. In
11 October of 2014, he founded Phillips ADR, where his current practice, along with his team that
12 includes other retired federal judges, focuses on the resolution of complex litigation matters. He is a
13 member of the bars of California, Oklahoma, Texas and the District of Columbia.

14 For over twenty years, he has successfully mediated complex commercial cases, including
15 hundreds of class actions and high-stakes civil disputes for Fortune 500 companies nationwide. He is
16 considered one of the leading mediators in the resolution of multi-party matters, some involving as
17 many as 150 parties. He has been appointed Special Master by numerous federal courts in complex
18 civil proceedings. It is not uncommon for him to settle billions of dollars of disputes on an annual
19 basis. He is a Diplomat Member of the California Academy of Distinguished Neutrals. He has been
20 nationally recognized as a mediator by the Center for Public Resources Institute for Dispute
21 Resolution (CPR), serving on CPR’s National Panel of Distinguished Neutrals. He also serves as a
22 Fellow in the American College of Trial Lawyers.

1 Among his recent successes was the mediation resulting in an uncapped settlement fund
2 valued at approximately one billion dollars in *In re NFL Players' Concussion Injury Litigation*, MDL
3 No. 2323 (E.D. Pa.), wherein he was appointed to serve as Mediator by the Honorable Anita Brody of
4 the United States District Court for the Eastern District of Pennsylvania. Judge Brody "thank[ed]
5 Judge Phillips for his diligence in assisting the parties in reaching an agreement," *see* Order, dated
6 August 29, 2013 (D.E. 5235), and she relied upon his involvement in granting final approval in terms
7 of insuring that the settlement negotiations were at arms' length and free from collusion. *See In re*
8 *NFL Players' Concussion Injury Litig.*, 307 F.R.D. 351, 363, 373-74, 377 (E.D. Pa. 2015).

9 Another case successfully mediated by Judge Phillips, resulting in a nine-figure settlement,
10 was *In re Citigroup Securities Litigation*, No. 07 Civ. 9901 (SHS) (S.D.N.Y.). The Honorable
11 Sidney Stein granted final approval of the \$590 million settlement in that case and, like Judge Brody,
12 relied upon Judge Phillips' involvement in determining that the settlement negotiations were at arms'
13 length. *In re Citigroup Securities Litig.*, 965 F. Supp.2d 369, 381 (S.D.N.Y. 2013).

14 Judge Phillips also recently successfully mediated matters pending in this District.
15 Specifically, the mediation in *In re Celera Corp. Securities Litigation*, No. 10-cv-02604-EJD (N.D.
16 Ca.), achieved a \$24 million settlement of a securities class action case that received final approval
17 by the district court last month. *See also In re Verifone Holdings, Inc. Securities Litigation*, 07-cv-
18 6140-EMC (N.D. Ca.) (D.E. 362, at 63) (\$95 million settlement that received final approval; Judge
19 Chen noted that the settlement was presided over by "renowned neutral ... Judge Phillips.").

20 Accordingly, it is with full confidence that the undersigned recommend Judge Phillips. The
21 undersigned, however, do not oppose the suggestions by others that Mr. Feinberg, Judge Infante,
22 Judge Smith, Judge Renfrew, Judge Walker, Judge Westerfield, or Professor McGovern be appointed
23 as Special Settlement Master. *See* D.E. 6, 12, 52.

1 Dated: December 14, 2015

Respectfully submitted,

2 /s/ Christopher A. Seeger

3 Christopher A. Seeger

(*Pro hac vice*)

4 **SEEGER WEISS LLP**

5 James E. Cecchi

(*Pro hac vice to be filed*)

6 **Carella, Byrne, Cecchi, Ostein, Brody &
Agnello, P.C.**

7 *Attorneys for Carrie Laspina*

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9 **CERTIFICATE OF SERVICE**

10 I hereby certify that on December 14, 2015, I electronically transmitted the attached document
11 to the Court Clerk using the ECF System for filing. The Clerk of Court will transmit a Notice of
12 Electronic Filing to all ECF registrants.
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15 /s/ Christopher A. Seeger

16 Christopher A. Seeger
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